

2012

Collateral Recovery

Informal  
Guidance



Illinois Commerce Commission  
Transportation Division

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## INTRODUCTION

This informal guidance has been created to assist applicants and licensees in gaining a general understanding of the basic requirements of the Collateral Recovery Act, 225 ILCS 422/1 *et seq.*, and the Collateral Recovery Administrative Rules, 92 Ill. Adm. Code 1480.10 *et seq.* The contents of this informal guidance may not be relied upon as a substitute for the most current official text of the Act or the Administrative Rules. This guidance may also not be relied upon as a substitute for legal advice. For legal advice, seek the services of a licensed attorney who would be able to examine your individual situation. The Illinois Commerce Commission and its Staff are not able to provide legal advice to the public.

Any comments or suggestions regarding this guidance may be submitted via US mail or the “Contact Us” option on the Commission’s website, <http://www.icc.illinois.gov/contactus/> to:

Office of Transportation Counsel  
Transportation Division  
Illinois Commerce Commission  
527 E. Capitol Ave.  
Springfield, IL 62701

Submission of any comments or suggestions through the “Contact Us” link or in writing to this address does not form an attorney client relationship. Any submitted comments or suggestions and any issued responses to the comments or suggestions are not subject to attorney client privilege.

For questions or inquiries regarding applications, the application process, or the status of an application, license, permit or registration, please contact:

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## 1) LAW

- ❖ The Collateral Recovery Act, 225 ILCS 422/1 *et seq.*, effective July 1, 2012
- ❖ Administrative Rules, 92 Ill. Adm. Code 1480.10 *et seq.*, effective June 1, 2012,

The purpose of the Collateral Recovery Act is to regulate individuals and entities engaged in the business of collateral recovery for the protection of the public. [225 ILCS 422/5]. The Act empowers the Illinois Commerce Commission to regulate repossession agencies and their employees, managers or agents in accordance with the Act and, among other things, establish reasonable requirements with respect to their business practices. [225 ILCS 422/15].

## 2) INAPPLICABILITY OF THE COLLATERAL RECOVERY ACT

### **This Act does not apply to:**

- Financial institution or the employee of the financial institution when the employee of the financial institution repossesses collateral in Illinois on behalf of that financial institution [225 ILCS 422/30(d)].
- Towing company or towing operator when an employee or agent of the creditor financial institution is present at the site from which the vehicle is towed [225 ILCS 422/30(e)]. However, for the purpose of this exemption, a towing company or a person or entity acting on behalf of a towing company, a repossession agency or a person or entity acting on behalf of a repossession agency will not qualify as a permissible agent. [92 Ill. Adm. Code 1480.10].
- Automobile rental company or the employee of the automobile rental company when the employee of the automobile rental company repossesses collateral in Illinois on behalf of that automobile rental company [225 ILCS 422/30(f)].
- Towing company or towing operator when an employee or agent of an automobile rental company is present at the site from which the vehicle is towed [225 ILCS 422/30(g)]. However, for the purpose of this exemption, a towing company or a person or entity acting on behalf of a towing company, a repossession agency or a person or entity acting on behalf of a repossession agency will not qualify as a permissible agent. [92 Ill. Adm. Code 1480.10].
- Retail seller of equipment or an employee of a retail seller of equipment, as equipment is defined in Section 9-102 of the Uniform Commercial Code, and lawn and grounds care consumer goods when repossessing the type of goods routinely sold by that retail seller in the manner authorized by Section 9-609 of the Uniform Commercial Code on behalf of the owner of a security interest in that collateral [225 ILCS 422/30(h)].

- Entity or the employee of an entity that primarily finances wholesale and retail transactions related to the purchase or lease of equipment manufactured by its affiliate when repossessing the equipment [225 ILCS 422/30(i)].
- Salvage auction or the employee of the salvage auction when the employee of the salvage auction repossesses collateral in Illinois on behalf of that salvage auction [225 ILCS 422/30(j)].
- Towing company or towing operator when the company or operator is acting on behalf of a salvage auction [225 ILCS 422/30(k)].
- Individuals or entities excluded from the regulatory definition of a repossession agency [225 ILCS 422/10].
  - An attorney at law who is performing his or her duties as an attorney at law;
  - The legal owner of collateral that is subject to a security agreement;
  - An officer or employee of the United States of America or of this State or a political subdivision of this State while the officer or employee is engaged in the performance of his or her official duties;
  - A qualified license or recovery permit holder when performing services for, or on behalf of, a licensed repossession agency.
  - A collection agency licensed under the Collection Agency Act [225 ILCS 425] when its activities are limited to assisting an owner in the recovery of property that is not collateral, as defined in this Act.

### 3) REGULATED PERSONS AND ENTITIES

The following persons or entities must obtain a license, recovery permit or registration from the Illinois Commerce Commission pursuant to the Collateral Recovery Act:

#### **Recovery Manager**

A recovery manager is a person in control or management of an Illinois repossession agency. A recovery manager must obtain a Class “MR” License from the Illinois Commerce Commission. [225 ILCS 422/10, 65, 75(e)(3)].

#### **Recovery Employee**

A recovery employee is an employee of a licensed repossession agency whose duties include actual repossession of collateral. A recovery employee must obtain a Class “E” Recovery Permit from the Illinois Commerce Commission. [225 ILCS 422/45(a), 75(e)(4)].

### **Recovery Intern**

A recovery intern is a person whose duties include the actual repossession of collateral under the direction and control of a designated, sponsoring Class "E" recovery permit or a designated, sponsoring Class "MR" license. A recovery intern must obtain a Class "EE" Recovery Permit from the Illinois Commerce Commission. [225 ILCS 422/75(e)(5)].

### **Repossession Agency**

A repossession agency is any person or entity that engages in the business of collateral recovery within the State of Illinois. Repossession agencies must obtain a "Class "R" License from the Illinois Commerce Commission. [225 ILCS 422/10, 35(a), 75(e)(1)].

## **4) REGULATED ACTIVITY**

**Repossession** occurs when the licensed repossession agency employee gains entry into the collateral, the collateral becomes connected to a tow vehicle, or the licensed repossession agency employee has physical control, custody, or possession of the collateral. [225 ILCS 422/110(a)].

## **5) TYPES OF LICENSES**

### **REPOSSESSION AGENCIES / MAIN OFFICE**

Repossession agencies engaging in recovery of collateral in the state of Illinois must obtain a **"Class "R" License** from the Illinois Commerce Commission. A repossession agency must have a main office with a secured storage facility located in the State of Illinois in order to apply for a Class "R" License. A Class "R" License is valid only for the repossession agency's main office location. [92 Ill. Adm. Code 1480.10].

#### **How to apply:**

The person or entity must file with the Commission:

- A completed Application for Class "R" License (Repossession Agency);
- All required supporting documents as listed in the application; and
- All required fees as listed in the application.

#### **What to expect next:**

- Applications received by the Commission will be reviewed for completeness and accuracy. If the Commission determines that the application is incomplete or improperly completed, the applicant will be issued a deficiency notice outlining the deficiencies that must be corrected before the application will be processed. The Commission will not process an application until it is complete. [92 Ill. Adm. Code 1480.20(a)].
- Applications for Class "R" License will also be reviewed to determine if the applicant has satisfied the fitness criteria contained in the law. If the Commission discovers that the applicant or any individual required to submit to a criminal background check as part of

the licensure process, has been convicted of any crime that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession, a hearing will be conducted to determine whether the applicant is nevertheless fit to hold a license in spite of conviction. [92 Ill. Adm. Code 1480.20(d)].

- An inspection of the main office with a secured storage facility will be conducted by Commission staff. The proposed facilities must pass the inspection before a license will be granted. [92 Ill. Adm. Code 1480.310].
- In addition, Certification of Insurance that complies with the minimum coverage amounts must be filed before a license will be granted. [225 ILCS 422/90].

#### **Duration and Renewal of Class “R” License:**

- An original Class “R” License is valid for 2 years from the date of issuance. [225 ILCS 422/75(a)]. For example, if the applicant’s Class “R” License is issued on August 13, 2012, it will be valid from August 13, 2012 through and including August 13, 2014.
- Prior to the expiration of the license, the Commission will mail to the license holder a renewal Application for Class “R” License (Repossession Agency). The completed form is to be mailed back to the Commission with appropriate fees. [225 ILCS 422/75(f)]. Please note that failure to receive a renewal application in the mail from the Commission does not excuse the license holder from timely filing a renewal application. A renewed Class “R” License expires 2 years after the date of renewal. [225 ILCS 422/75(c)].
- If the license holder permits the license to expire by not renewing it, the license holder may apply to have the license restored by filing a completed restoration Application for Class “R” License (Repossession Agency) and appropriate fees with the Commission. [225 ILCS 422/75(g)].
- A Class “R” License is transferrable. [225 ILCS 422/35(m)].

#### **BRANCH OFFICE**

A repossession agency must obtain a **“Class “RR” License** for each branch office from which it wishes to operate. [225 ILCS 422/10, 75(e)(2)].

A **“Branch Office”** is:

- each additional office and secured storage facility location of a repossession agency, other than the main office location
- located in and conducting business within the State of Illinois
- operating under the same name as the licensed repossession agency engaged in the business of collateral recovery

#### **How to apply:**

A repossession agency must file with the Commission:

- A completed Application for Class “RR” License (Repossession Agency Branch Office);
- All required supporting documents as listed in the application; and
- All required fees as listed in the application.

**What to expect next:**

- Applications received by the Commission will be reviewed for completeness and accuracy. If the Commission determines that the application is incomplete or improperly completed, the applicant will be issued a deficiency notice outlining the deficiencies that must be corrected before the application will be processed. The Commission will not process an application until it is complete.
- An inspection of the branch office with a secured storage facility will be conducted by Commission staff. The proposed facilities must pass the inspection before a license will be granted. [92 Ill. Adm. Code 1480.310].
- In addition, Certification of Insurance that complies with the minimum coverage amounts must be filed before a license will be granted. [225 ILCS 422/90].

**Duration and Renewal of Class “RR” License:**

- An original Class “RR” License is valid for 2 years from the date of issuance. [225 ILCS 422/75(a)]. For example, if the applicant’s Class “RR” License is issued on August 13, 2012, it will be valid from August 13, 2012 through and including August 13, 2014.
- Prior to the expiration of the license, the Commission will mail to the license holder a renewal Application for Class “RR” License (Repossession Agency Branch Office). The completed form is to be mailed back to the Commission with appropriate fees. [225 ILCS 422/75(f)]. Please note that failure to receive a renewal application in the mail from the Commission does not excuse the license holder from timely filing a renewal application. A renewed Class “RR” License expires 2 years after the date of renewal. [225 ILCS 422/75(c)].
- If the license holder permits the license to expire by not renewing it, the license holder may apply to have the license restored by filing a completed restoration Application for Class “RR” License (Repossession Agency Branch Office) and appropriate fees with the Commission. [225 ILCS 422/75(g)].

**RECOVERY MANAGER**

An individual wanting to perform the services of a recovery manager for a repossession agency or a branch office of a repossession agency must apply for a **"Class "MR" License"**. [225 ILCS 422/40(a), 75(e)(3); 92 Ill. Adm. Code 1480.10]. Each licensed repossession agency and licensed branch office location must have a licensed recovery manager. [225 ILCS 422/65(a)]. A licensed recovery manager may only be in control of one repossession agency or branch office location at one time. [225 ILCS 422/65(b)].

**How to apply:**

An individual must file with the Commission:

- A completed Application for Class “MR” License (Recovery Manager);
- All required supporting documents as listed in the application; and
- All required fees as listed in the application.



**What to expect next:**

- Applications received by the Commission will be reviewed for completeness and accuracy. If the Commission determines that the application is incomplete or improperly completed, the applicant will be issued a deficiency notice outlining the deficiencies that must be corrected before the application will be processed. The Commission cannot process an application until it is complete. [92 Ill. Adm. Code 1480.40(a)].
- Applications for Class “MR” License will also be reviewed to determine if the applicant has satisfied the fitness criteria contained in the law. If the Commission discovers that the applicant has been convicted of any crime that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession, a hearing will be conducted to determine whether the applicant is nevertheless fit to hold a license in spite of conviction. [92 Ill. Adm. Code 1480.40(d)].
- Once the applicant has satisfied all the requirements, the Commission will issue to the applicant a Class “MR” License. In addition to issuing the recovery manager license, the Commission will also provide to the licensed recovery manager a Pocket Identification Card. [225 ILCS 422/40(b)].

**Duration and Renewal of Class “MR” License:**

- An original Class “MR” License is valid for 2 years from the date of issuance. [225 ILCS 422/75(a)]. For example, if the applicant’s Class “MR” License is issued on August 13, 2012, it will be valid from August 13, 2012 to August 13, 2014.
- Prior to the expiration of the license, the Commission will mail to the license holder a renewal Application for Class “MR” License (Recovery Manager). The completed form is to be mailed back to the Commission with appropriate fees. [225 ILCS 422/75(f)]. Please note that failure to receive a renewal application in the mail from the Commission does not excuse the license holder from timely filing a renewal application. A renewed Class “MR” License expires 2 years after the date of renewal. [225 ILCS 422/75(c)].
- If the license holder permits the license to expire by not renewing it, the licensee may apply to have the license restored by filing a completed restoration Application for Class “MR” License (Recovery Manager) and appropriate fees with the Commission. [225 ILCS 422/75(g)].
- Class “MR” License is not transferable. 225 ILCS 422/40(c).

**6) REGISTRATION OF REMOTE STORAGE LOCATIONS**

A repossession agency must register each remote storage location that it wishes to utilize. [225 ILCS 422/50(a); 92 Ill. Adm. Code 1480.320].

**A “Remote storage location” is:**

- A secured storage facility of a licensed repossession agency used by the agency only for the storage of repossessed collateral. This location cannot be used to transact business with the public or to store inventoried non-collateral property or records. [92 Ill. Adm. Code 1480.300, 350(b), 370].

- A secure building or has a perimeter that is secured with a fence that makes the area not accessible to the public.
- Located in a commercially zoned area physically located in Illinois [225 ILCS 422/10].

**How to apply:**

A repossession agency must file with the Commission:

- A completed Application for Repossession Agency Remote Storage Location Registration;
- All required supporting documents as listed in the application;
- All required fees as listed in the application.

**What to expect next:**

- Applications received by the Commission will be reviewed for completeness and accuracy. If the Commission determines that the application is incomplete or improperly completed, the applicant will be issued a deficiency notice outlining the deficiencies that must be corrected before the application will be processed. The Commission cannot process an application until it is complete. [92 Ill. Adm. Code 1480.320].
- An inspection of the remote storage location will be conducted by Commission staff. The proposed facilities must pass the inspection before a registration will be issued. [92 Ill. Adm. Code 1480.380].
- In addition, Certification of Insurance that complies with the minimum coverage amounts must be filed before the registration will be granted. [225 ILCS 422/90].

## 7) TYPES OF PERMITS

### RECOVERY EMPLOYEE

All employees, including independent contractors, of a licensed repossession agency who will engage in actual repossession of collateral must apply for a **Class “E” Recovery Permit**. [225 ILCS 422/45(a), 75(e)(4); 92 Ill. Adm. Code 1480.10].

**How to apply:**

An individual must file with the Commission:

- A completed Application for Class “E” Recovery Permit (Employee);
- All required supporting documents as listed in the application; and
- All required fees as listed in the application.

**What to expect next:**

- Applications received by the Commission will be reviewed for completeness and accuracy. If the Commission determines that the application is incomplete or improperly completed, the applicant will be issued a deficiency notice outlining the deficiencies that must be corrected before the application will be processed. The Commission cannot process an application until it is complete. [92 Ill. Adm. Code 1480.50(a)].

- Applications for Class “E” Recovery will also be reviewed to determine if the applicant has satisfied the fitness criteria contained in the law. If the Commission discovers that the applicant has been convicted of any crime that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession, a hearing will be conducted to determine whether the applicant is nevertheless fit to hold a license in spite of conviction. [92 Ill. Adm. Code 1480.50(c)].
- Once the applicant has satisfied all the requirements, the Commission will issue to the applicant a Class “E” Recovery Permit. In addition, every repossession agency for which the recovery employee works, will provide the recovery employee with an Employee Identification Card. [225 ILCS 422/45(e)]. The recovery employee must carry his or her recovery permit and the employee identification card issued by a repossession agency at all times while performing his or her duties for the repossession agency. [225 ILCS 422/45(c)].

#### **Duration and Renewal of Class “E” Recovery Permit:**

- An original Class “E” Recovery Permit is valid for 1 year from the date of issuance. [225 ILCS 422/75(b)]. For example, if the applicant’s Class “E” Recovery Permit is issued on August 13, 2012, it will be valid from August 13, 2012 through and including August 13, 2013.
- Prior to the expiration of the recovery permit, the Commission will mail to the permit holder a renewal Application for Class “E” Recovery Permit (Employee). The completed form is to be mailed back to the Commission with appropriate fees. [225 ILCS 422/75(f)]. Please note that failure to receive a renewal application in the mail from the Commission does not excuse the permit holder from timely filing a renewal application. A renewed Class “E” Recovery Permit expires 1 year after the date of renewal. [225 ILCS 422/75(d)].
- If the permit holder allows the permit to expire by not renewing it, the permit holder may apply to have the permit restored by filing a completed restoration Application for Class “E” Recovery Permit (Employee) and appropriate fees with the Commission. [225 ILCS 422/75(g)].
- Class “E” Recovery Permit is not transferable. [225 ILCS 422/75(e)(7)].

#### **RECOVERY INTERN**

All persons wanting to work for a licensed repossession agency as recovery interns must apply for a **Class “EE” Recovery Permit**. A recovery intern is an individual permitted to perform actual repossession of collateral for a repossession agency only under the direction and control of a designated, sponsoring Class "E" Recovery Permit or a Class "MR" License. [225 ILCS 422/75(e)(5)].

For example, if a Repossession Agency X wants to hire Mr. Smith as a recovery intern, an individual holding a Class “E” Recovery Permit or Class "MR" License that already works for Repossession Agency X must sponsor Mr. Smith. In addition, Mr. Smith will work under the direction and control of this sponsoring individual.

Applicants for Class "EE" recovery permits must fulfill the same fitness standards that are required of Class "E" recovery permit applicants except Class "EE" applicants do not have to complete a recovery agency employee certification program approved by the Commission. [92 Ill. Adm. Code 1480.50(f)].

#### **How to apply:**

The individual must file with the Commission:

- A completed Application for Class "EE" Recovery Permit (Intern);
- All required supporting documents as listed in the application; and
- All required fees as listed in the application.

#### **What to expect next:**

- Applications received by the Commission will be reviewed for completeness and accuracy. If the Commission determines that the application is incomplete or improperly completed, the applicant will be issued a deficiency notice outlining the deficiencies that must be corrected before the application will be processed. The Commission cannot process an application until it is complete. [92 Ill. Adm. Code 1480.50(a)].
- Applications for Class "EE" Recovery Permit will also be reviewed to determine if the applicant has satisfied the fitness criteria contained in the law. If the Commission discovers that the applicant has been convicted of any crime that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession, a hearing will be conducted to determine whether the applicant is nevertheless fit to hold a license in spite of conviction. [92 Ill. Adm. Code 1480.50(c)].
- Once the applicant has satisfied all the requirements, the Commission will issue to the applicant a Class "EE" Recovery Permit. In addition, the repossession agency for which the recovery intern works will provide the recovery intern with an Employee Identification Card. [225 ILCS 422/45(e)]. The recovery intern must carry his or her recovery permit and the employee identification card issued by a repossession agency at all times while performing his or her duties for the repossession agency. [225 ILCS 422/45(c)].

#### **Duration and Renewal of Class "EE" Recovery Permit:**

- An original Class "EE" Recovery Permit is valid for 1 year from the date of issuance. [225 ILCS 422/75(b)]. For example, if the applicant's Class "EE" Recovery Permit is issued on August 13, 2012, it will be valid from August 13, 2012 through and including August 13, 2013.
- Prior to the expiration of the recovery permit, the Commission will mail to the permit holder a renewal Application for Class "EE" Recovery Permit (Intern). The completed form is to be mailed back to the Commission with appropriate fees. [225 ILCS 422/75(f)]. Please note that failure to receive a renewal application in the mail from the Commission does not excuse the permit holder from timely filing a renewal application. A renewed Class "EE" Recovery Permit expires 1 year after the date of renewal. [225

ILCS 422/75(d)]. A Class "EE" Recovery Permit can only be renewed once and will expire permanently at the end of the renewal period. [92 Ill. Adm. Code 1480.60(d)].

- If the permit holder allows the permit to expire by not renewing it, the permit holder may apply to have the permit restored by filing a completed restoration Application for Class "EE" Recovery Permit (Intern) and appropriate fees with the Commission. [225 ILCS 422/75(g)].
- Class "EE" Recovery Permit is not transferable. [225 ILCS 422/75(e)(7)].

### **CONVERSION OF CLASS "EE" RECOVERY PERMIT TO CLASS "E" RECOVERY PERMIT**

Upon completion of an approved recovery agency employee certification program, a holder of a Class "EE" Recovery Permit in good standing may file an application for conversion of his or her Class "EE" Recovery Permit to a Class "E" Recovery Permit. [92 Ill. Adm. Code 1480.60].

#### **How to apply:**

The individual must file with the Commission:

- A completed Application for Conversion of Class "EE" Recovery Permit to a Class "E" Recovery Permit;
- All required supporting documents as listed in the application;
- There is no fee to file this application.

#### **What to expect next:**

- Applications received by the Commission will be reviewed for completeness and accuracy. If the Commission determines that the application is incomplete or improperly completed, the applicant will be issued a deficiency notice outlining the deficiencies that must be corrected before the application will be processed. The Commission cannot process an application until it is complete. [92 Ill. Adm. Code 1480.60(a)].
- Applications for Conversion of Class "EE" Recovery Permit to a Class "E" Recovery Permit will also be reviewed to determine if the applicant has satisfied the fitness criteria contained in the law. If the Commission discovers that the applicant has been convicted of any crime that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession, a hearing will be conducted to determine whether the applicant is unfit to hold a recovery permit because of conviction. [92 Ill. Adm. Code 1480.50(c)].

## **8) REGISTRATION OF PERSONNEL**

- A repossession agency must register with the Commission its licensed recovery managers, as well as, all Class "E" employees and Class "EE" interns it uses to perform actual repossessions under the authority of its license with the Commission. [92 Ill. Adm. Code 1480.150(a), 225 ILCS 422/130].
- How to register personnel:
  - The licensed repossession agency must complete and file with the Commission a Recovery Manager, Employee or Intern Registration form.

- There is no fee to file a registration.
- Registrations are not effective until accepted by the Commission. The Commission will not accept a registration that is incomplete or improperly completed. If the Commission determines that the registration form is incomplete or improperly completed, the repossession agency will be issued a deficiency notice outlining the deficiencies that must be corrected before the registration will be processed. [92 Ill. Adm. Code 1480.150(a), (b)].
- A repossession agency will issue an Employee Identification Card only if the registration for that person has been accepted by the Commission. [92 Ill. Adm. Code 1480.150(c)].
- Once a person is registered with the Commission, the registration must be updated to effect any changes in the employment status of the registered individual. [92 Ill. Adm. Code 1480.150(e)].

## 9) **SUSPENSION, REVOCATION, REFUSAL TO ISSUE OR RENEW, PROBATION, FINES, DISCIPLINARY ACTION**

The Commission may

- **refuse to issue or renew**
- **suspend or revoke**
- **place on probation,**
- **fine, or**
- **take any disciplinary action that the Commission may deem proper, including fines not to exceed \$2,500 for each violation,**

with regard to any license holder or recovery permit holder for one or any combination of the following causes:

- (1) Knowingly making any misrepresentation for the purpose of obtaining a license or recovery permit.
- (2) Violations of the Collateral Recovery Act or its administrative rules.
- (3) Conviction of any crime under the laws of the United States or any state or territory thereof that is (i) a felony, (ii) a misdemeanor, an essential element of which is dishonesty, or (iii) a crime that is related to the practice of the profession.
- (4) Aiding or abetting another in violating any provision of this Act or its rules.
- (5) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public as defined by rule.
- (6) Violation of any court order from any State or public agency engaged in the enforcement of payment of child support arrearages or for noncompliance with certain processes relating to paternity or support proceeding.
- (7) Solicitation of professional services by using false or misleading advertising.
- (8) A finding that the license or recovery permit was obtained by fraudulent means.
- (9) Practicing or attempting to practice under a name other than the full name shown on the license or recovery permit or any other legally authorized name.

[225 ILCS 422/80(a)].

The Commission may refuse to issue or may suspend the license or recovery permit of any person or entity who fails to file a return, pay the tax, penalty, or interest shown in a filed return, or pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until the time the requirements of the tax Act are satisfied. The Commission may take into consideration any pending tax disputes properly filed with the Illinois Department of Revenue. [225 ILCS 422/80(b)].

**Class “R” License will be automatically suspended if:**

- A repossession agency fails to notify the Commission within 30 days after a licensed recovery manager in control or management of a repossession agency’s main office ceases to be in control or management of the agency main office. If notice is filed with the 30 days, then the license will remain in force for 90 days after filing of the notice. [225 ILCS 422/65(c)].
- A repossession agency fails to notify the Commission within the 90-day period that a recovery manager is currently in control or management of the agency’s main office. [225 ILCS 422/65(c)].
- On the date of cancellation of the insurance policy, unless new evidence of insurance is provided to the Commission prior to the effective date of cancellation. [225 ILCS 422/90].

**Class “RR” License will be automatically suspended if:**

- A repossession agency fails to notify the Commission within 30 days after a licensed recovery manager in control or management of a repossession agency’s branch office ceases to be in control or management of the agency’s branch office. If notice is filed with the 30 days, then the license will remain in force for 90 days after filing of the notice. [225 ILCS 422/65(c)].
- A repossession agency fails to notify the Commission within the 90-day period that a recovery manager is currently in control or management of the agency’s branch office. [225 ILCS 422/65(c)].
- On the date of cancellation of the insurance policy, unless new evidence of insurance is provided to the Commission prior to the effective date of cancellation. [225 ILCS 422/90].

**Reinstatement of suspended or revoked licenses or permits**

- A repossession agency may apply to reinstate a suspended **Repossession Agency License** by filing a completed reinstatement Application for Class “R” License (Repossession Agency) and appropriate fees with the Commission. [225 ILCS 422/65(c),75(h)].
- A repossession agency may apply to reinstate a suspended **Branch Office License** by filing a completed reinstatement Application for Class “RR” License (Repossession

Agency Branch Office) and appropriate fees with the Commission. [225 ILCS 422/65(c),75(h)].

- A recovery manager may apply to reinstate a suspended **Recovery Manager License** by filing a completed reinstatement Application for Class “MR” License (Recovery Manager). No fee is required to file this application. [225 ILCS 422/75(h)].
- An employee may apply to reinstate a suspended **Recovery Employee Permit** by filing a completed reinstatement Application for Class “E” Recovery Permit (Employee). No fee is required to file this application. [225 ILCS 422/75(h)].
- An intern may apply to reinstate a suspended **Recovery Intern Permit** by filing a completed reinstatement Application for Class “EE” Recovery Permit (Intern). No fee is required to file this application. [225 ILCS 422/75(h)].

### **Summary Suspension**

- The Commission may summarily suspend the license of a repossession agency, the license of a recovery manager, or the recovery permit of an employee without a hearing, if the Commission has evidence that a repossession agency's, recovery manager's, or employee's continuation in the business of collateral recovery would constitute an imminent danger to the public.
- In the event that the Commission summarily suspends a license or recovery permit without a hearing, a hearing by the Commission must be held within 30 calendar days after the suspension has occurred. [225 ILCS 422/190].

## **10) RECOVERY TICKETS**

- A licensed repossession agency must purchase a recovery ticket from the Commission for each repossessed vehicle or collateral. [225 ILCS 422/25(a)].
- The cost for each recovery ticket is \$10.00 and is nonrefundable. Recovery tickets are sold in lots of 50 and 100. Only a repossession agency that is licensed under the Collateral Recovery Act may purchase recovery tickets. [225 ILCS 422/25(c)]. Shipping fees will be charged on orders for recovery tickets only if expedited shipping is requested.
- A licensed repossession agency must complete a recovery ticket for each repossessed vehicle or collateral. A completed recovery ticket must indicate the date and time of the repossession, the name of the licensed repossession agency performing the repossession, the name of the financial institution on whose behalf the repossession is performed, the recovery permit number of the Class “E” or Class “EE” Recovery Permit holder, the name and officer identification number of the local law enforcement officer notified of the repossession, and when applicable, the VIN number, make, model and year of a vehicle repossessed. [225 ILCS 422/25(a)].
- A completed recovery ticket or copy of the completed recovery ticket must be attached to the collateral at the time of the repossession and remain attached until the collateral is returned to the debtor, lien holder, or liquidated. A copy of the recovery ticket must be kept as part of the licensed repossession agency's permanent file for no less than two



years from the date of the repossession. Additionally, a copy of the recovery ticket must be returned to the legal owner of financial institution within 72 hours following the repossession. [225 ILCS 422/25].

## **11) INSURANCE**

No repossession agency license, branch office license, or remote storage location registration will be issued unless the applicant first files with the Commission a **Certification of Insurance** evidencing coverage in the amount required under Section 90 of the Collateral Recovery Act. [225 ILCS 422/90].

- Coverage must be written by an insurance company that is lawfully engaged to provide insurance coverage in Illinois.
- The coverage must provide the Commission as an additional insured for the purpose of receiving all notices of modifications or cancellations of such insurance.
- The agency must notify the Commission immediately upon cancellation of the insurance policy, whether the cancellation was initiated by the insurance company or the insured agency.
- Coverage must provide for the following:
  - ✓ a combined single limit policy in the amount of at least \$1,000,000 per occurrence and a \$3,000,000 aggregate policy;
  - ✓ commercial general liability for wrongful repossession;
  - ✓ garage keepers;
  - ✓ on hook;
  - ✓ drive-away;
  - ✓ shall be a direct primary policy;
  - ✓ insure for the liability of all employees licensed or registered by the Commission while acting in the course of their employment;
  - ✓ dishonesty bond policy in the amount of at least \$1,000,000.

## **12) HANDLING OF PERSONAL EFFECTS OR OTHER PROPERTY CONTAINED IN OR ON REPOSSESSED COLLATERAL**

### **INVENTORY AND STORAGE OF NON-COLLATERAL**

Personal effects or other property not covered by a security agreement that are contained in or on a recovered vehicle at the time the vehicle is repossessed must be:

- ✓ completely and accurately inventoried
- ✓ a record of the inventory must be maintained on file with the licensed repossession agency for a period of 2 years following the date of repossession
- ✓ the licensed repossession agency must hold all personal effects and other property not covered by a security agreement until the licensed repossession agency either:
  - returns the personal effects and other property to the debtor, or

- disposes of the personal effects and other property in accordance with the statute

[225 ILCS 422/110(c)]

### **NOTIFICATIONS TO DEBTOR**

Within 5 working days following the date of repossession, the licensed repossession agency must give written notification to the debtor of the whereabouts of personal effects or other property inventoried. [225 ILCS 422/110(d), 92 Ill. Adm. Code 1480.240].

- The licensed repossession agency is not required to send the written notice, if the debtor, or an authorized individual with a notarized release from the debtor, retrieves personal effects or property from the repossessed collateral prior to the time when written notice to the debtor is due.
  - The licensed repossession agency must retain in its records for at least 3 years, a receipt signed by the debtor or his authorized representative that acknowledges the receipt of the personal property. [92 Ill. Adm. Code 1480.240].

At least 45 days prior to disposing of such personal effects or other property, the licensed repossession agency must, by United States Postal Service certified mail, notify the debtor of the intent to dispose of the property. [225 ILCS 422/110(d)].

- Should the debtor, or his or her lawful designee, appear to retrieve the personal property prior to the date on which the licensed repossession agency is allowed to dispose of the property, the licensed repossession agency must surrender the personal property to that individual upon payment of any reasonably incurred expenses for inventory and storage. [225 ILCS 422/110(d)].
- If personal property is not claimed within 45 days of the notice of intent to dispose, then the licensed repossession agency may dispose of the personal property at its discretion. However, all illegal items or contraband must be surrendered to a law enforcement agency and the licensed repossession agency must retain a receipt or other proof of surrender as part of the inventory and disposal records it maintains. [225 ILCS 422/110(e)].
- The inventory of the personal property and the records regarding any disposal of personal property must be maintained for a period of 2 years in the permanent records of the licensed repossession agency and must be made available upon request to the Commission. [225 ILCS 422/110(e)].

### **13) NOTIFICATION TO LAW ENFORCEMENT**

**Prior to a repossession**, the licensed repossession agency or repossession agency employee must notify the appropriate law enforcement agency located in the jurisdiction in which the

licensed repossession agency or repossession agency employee plans to perform the repossession. [225 ILCS 422/105].

The following information must be provided to the law enforcement agency as part of the notification:

- 1) Name of the repossession agency;
- 2) License number of the repossession agency;
- 3) Color, make, model, vehicle identification number (VIN) if applicable, serial number if applicable, and a general description of collateral to be repossessed.

[92 Ill. Adm. Code 1480.415(b)].

**Within 30 minutes after the completion of the repossession**, the licensed repossession agency or repossession agency employee must notify the appropriate law enforcement agency that the repossession has occurred within its jurisdiction. [225 ILCS 422/105].

The following information must be provided to the law enforcement agency as part of the notification:

- 1) Name of the repossession agency;
- 2) License number of the repossession agency;
- 3) Color, make, model, vehicle identification number (VIN) if applicable, serial number if applicable, and a general description of collateral repossessed;
- 4) Date and time the repossession was completed.

[92 Ill. Adm. Code 1480.416(b)].

### **Record of Notifications**

Repossession agencies must maintain records documenting the notifications made. The records must include:

- 1) Date and time of each notification;
- 2) Law enforcement agency notified;
- 3) All of the information required to be provided pursuant to Sections 1480.415 and 1480.416.

[92 Ill. Adm. Code 1480.417]

## **14) FREQUENTLY ASKED QUESTIONS**

### **1. What constitutes actual repossession?**

Repossession occurs when the licensed repossession agency employee gains entry into the collateral, the collateral becomes connected to a tow vehicle, or the licensed repossession agency employee has physical control, custody, or possession of the collateral. [225 ILCS 422/110(a)].

**2. Must a repossession agency performing actual repossession in Illinois have an office with a secured storage facility in the state of Illinois for purposes of licensing under the Collateral Recovery Act?**

Yes. To be licensed as a Class “R” Repossession Agency in Illinois, the agency must designate a main office location in the State of Illinois. Any branch offices used to transact business with the public or remote storage locations used to store collateral repossessed in the State of Illinois under the authority of a Class “R” License must also be in Illinois. The main office and each branch office of a repossession agency must maintain a secured storage facility on the premises.

**3. Are forwarding companies required to be licensed under the Collateral Recovery Act? For the purposes of answering this question, the term “forwarding company” means a company that receives repossession assignments from clients and assigns the actual repossessions to be performed by a recovery agency in the State of Illinois.**

No; however, if the forwarding also performs actual repossessions in Illinois it is subject to licensing requirements of the Collateral Recovery Act with respect to that aspect of its business.

**4. If a bank performs its own repossessions, must it obtain a Class “R” license?**

The Collateral Recovery Act does not apply to a financial institution or the employees of the financial institution when the employees of the financial institution repossess collateral in Illinois on behalf of that financial institution. [225 ILCS 422/30(d)]. If a bank employs individuals in house for the purpose of performing repossessions on behalf of the bank, the bank does not need to obtain a Class “R” License.

**5. When are recovery tickets required?**

A licensed repossession agency must purchase a recovery ticket from the Commission and attach it to each vehicle or collateral repossessed in the State of Illinois under the authority of its Class “R” License. [225 ILCS 422/25(c), 92 Ill. Adm. Code 1480.180].

**6. Is there any minimum requirement for hours of operation for a licensed repossession agency’s main office or branch office?**

The Act does not place any minimum or maximum requirements on the hours of operation of a main office location or branch office location.

**7. Can an agency's main or branch office have more than one recovery manager?**

A licensed repossession agency's main office location or branch office location may have more than one recovery manager; however, a manager cannot manage more than one location. [225 ILCS 422/65(b)].

**8. Do I have to have both a manager license and an employee permit?**

An individual who wishes to serve as a recovery manager for a licensed repossession agency must obtain a Class "MR" License. An individual who will perform actual repossessions for a licensed repossession agency must obtain a Class "E" Recovery Permit. These two authorities are not interchangeable. An individual wanting to work for a licensed repossession agency as both a recovery manager and an employee performing actual repossessions must obtain the managers license and the employee recovery permit.

**9. I wish to work as a Class "E" employee for several repossession agencies that repossess collateral in the State of Illinois under the authority of their Class "R" License. Do I need to obtain a Class "E" Recovery Permit for each repossession agency for which I wish to work?**

No. The individual must obtain one Class "E" Recovery Permit. Every repossession agency for which the recovery employee works, will register the recovery employee with the Illinois Commerce Commission and provide the recovery employee with an Employee Identification Card. The recovery employee must carry his or her recovery permit and the employee identification card issued by a repossession agency at all times while performing his or her duties for the repossession agency. [225 ILCS 422/45(c)].

**10. Must a licensed repossession agency provide an Employee Identification Card to every employee of the licensed repossession agency?**

No. A licensed repossession agency must provide an Employee Identification Card to every Class "E" employee and Class "EE" intern that the licensed repossession agency utilizes to perform actual repossessions in the state of Illinois under the authority of its Class "R" License. This requirement does not apply to office or clerical personnel. [225 ILCS 422/45(e)].

**11. Do employees or administrative staff who work strictly in the office environment need to have a recovery permit?**

No. Administrative staff or office workers who do not engage in actual repossessions of collateral do not need a recovery permit. [225 ILCS 422/30(c), 45(a), 75(e)(5)].

**12. Do I have to conduct an inventory if I repossess a vehicle and take it immediately to the lien holder (i.e., not stored)?**

The Collateral Recovery Act requires that the licensed repossession agency completely and accurately inventory any personal effects or other property not covered by a security agreement that is contained in or on a recovered vehicle at the time of the repossession. In addition, the licensed repossession agency must store all such personal effects and other property until the licensed repossession agency either returns the property to the debtor or disposes of the property in accordance with the Act. The licensed repossession agency is thus required to take the repossessed vehicle to its main office with a secured storage facility or one of its branch offices with a secured storage facility for the purpose of inventory and storage of personal effects or other property and not immediately to the lien holder.

**13. Do I have to be fingerprinted multiple times and pay the fee each time?**

**Sole Proprietor:**

If Mr. Jones is a sole proprietor and wishes to file an application for a Class “R” License to operate as a repossession agency and an application for a Class “MR” License to be able to serve as a recovery manager for his repossession agency and/or an application for a Class “E” Recovery Permit because he will engage in actual repossession of collateral, Mr. Jones will be charged one fingerprinting fee if all of the applications are received by the Illinois Commerce Commission on the same day. If the applications are not received on the same day, then Mr. Jones will need to submit multiple fingerprinting fees.

**Business entity other than a sole proprietor (Partnership, Corporation, LLC):**

If a business entity, Partnership, Corporation, LLC, wishes to file an application for a Class “R” License to operate as a repossession agency and one of its partners, corporate officers or members listed in Part 2A of the Class “R” application, respectively, wishes to file an application for a Class “MR” License to be able to serve as a recovery manager for the repossession agency and/or an application for a Class “E” Recovery Permit because he or she will engage in actual repossession of collateral, the partner, corporate officer or member will be charged one fingerprinting fee if all of the applications are received by the Illinois Commerce Commission on the same day. If the applications are not received on the same day, then the individual will need to submit multiple fingerprinting fees.

**14. Is a “buy here pay here” automobile dealership exempt under the Collateral Recovery Act?**

Two potential provisions might exempt a “buy here pay here” automobile dealership from the requirements of the Collateral Recovery Act: Section 30 and Section 10.

Section 30(d) of the Collateral Recovery Act provides that it ". . . does not apply to a financial institution or the employee of a financial institution when engaged in an activity otherwise covered by this Act if the activity is conducted by the employee on behalf of that financial institution". 225 ILCS 422/30(d). Section 10 of the Collateral Recovery Act defines "financial institution" as "a bank, a licensee under the Consumer Installment Loan Act, savings bank, savings and loan association, or credit union organized and operating under the laws of this or any other state or of the United States, and any subsidiary or affiliate thereof". 225 ILCS 422/10. If an automobile dealership qualifies under the definition of "financial institution" the Collateral Recovery Act will not apply to the dealership, provided its own employees perform the repossessions in-house.

Section 10 of the Collateral Recovery Act also might not apply to an automobile dealership if it qualifies as the "legal owner" of the collateral to be repossessed, as legal owners are excluded from the definition of "repossession agency". 225 ILCS 422/10. The Collateral Recovery Act's definition of "repossession agency" does not include "the legal owner of collateral that is subject to a security agreement". 225 ILCS 422/10. "'Legal owner' means a person holding (i) a security interest in any collateral that is subject to a security agreement, (ii) a lien against any collateral, or (iii) an interest in any collateral that is subject to a lease or rental agreement". 225 ILCS 422/10. Thus, it is also conceivable that an automobile dealership could be exempt from the Collateral Recovery Act if it satisfies the definition of "legal owner" and thus does not qualify as a "repossession agency".

#### **15. Where must a licensed repossession agency keep its records?**

Records of all repossessed collateral and personal effects or other property not covered by a security agreement in the possession of a repossession agency as the result of repossession must be kept at the office on the same premises at which the collateral or non-collateral property is or was stored or inventoried. [92 Ill. Adm. Code 1480.290]. Records of all repossessed collateral located at remote storage locations must be kept and maintained at the nearest branch office or main office. [92 Ill. Adm. Code 1480.370].

#### **16. What records must a licensed repossession agency keep?**

While it is not possible to make an exhaustive list, the Act and its Administrative Rules specify the following as records to be kept and made available for inspection:

- Copies of Licenses:
  - A copy of the Class "R" Repossession Agency License and Class "MR" Recovery Manager licenses.
  - A copy of the Class "RR" Branch Office License and Class "MR" Recovery Manager licenses.
  - These licenses are to be conspicuously displayed. [225 ILCS 422/65(e), 95].

- Records of Employees:
  - A photograph taken within 10 days after an employee or intern begins employment, to be updated every 3 years thereafter so long as the employee or intern maintains employment with the agency. [225 ILCS 422/45(d)(1)].
  - A copy of each Class “E” or Class “EE” Recovery Permit application (for a minimum of 3 years). [225 ILCS 422/45(d)(2), 92 Ill. Adm. Code 1480.190(d)].
  - Photo identification cards issued to former employees and interns, and, if applicable, documentation that such cards were reported stolen to local law enforcement (for a minimum of 3 years). [225 ILCS 422/45(d)(4), 92 Ill. Adm. Code 1480.190(d)].
- Records of Non-Collateral Property:
  - Records of personal property inventories (for a minimum of 2 years from the date of repossession). [225 ILCS 422/110(c)].
  - Notifications to debtor of whereabouts of personal property inventoried (for a minimum of 2 years). [225 ILCS 422/110(d)].
  - Personal property receipt (for a minimum of 3 years). [92 Ill. Adm. Code 1480.240(b)].
  - Notifications to debtor of intent to dispose of unclaimed personal property inventoried (for a minimum of 2 years). [225 ILCS 422/110(d)].
  - Receipts of proof of surrender of illegal items or contraband to law enforcement inventories (for a minimum of 2 years). [225 ILCS 422/110(e)].
- Records of Repossessions:
  - Copies of recovery tickets (for a minimum of 2 years from the date of repossession). [225 ILCS 422/25(b)].
  - Records of pre-repossession and post-repossession notifications to law enforcement (for a minimum of 3 years). [92 Ill. Adm. Code 1480.417(a), 92 Ill. Adm. Code 1480.190(d)].
  - Records of repossessed collateral stored (for a minimum of 3 years). [92 Ill. Adm. Code 1480.290, 190(d)].
  - Financial books, accounts, records, and financial memoranda of repossessions (for a minimum of 3 years). [92 Ill. Adm. Code 1480.190(d)].